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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,737	08/27/2001	Cheng-Hao Chou	2760-15	5143
616	7590	11/14/2005	EXAMINER	
THE MAXHAM FIRM 750 "B" STREET, SUITE 3100 SAN DIEGO, CA 92101			VO, NGUYEN THANH	
			ART UNIT	PAPER NUMBER
			2685	

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/940,737

Applicant(s)

CHOU, CHENG-HAO

Examiner

Nguyen T. Vo

Art Unit

2685

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 33-50.

Claim(s) withdrawn from consideration: 7-10, 18-23, 29-32.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 10/26/2005 have been fully considered but they are not persuasive.

Rejection under 35 USC 103(a) as being unpatentable over Vasnier and JP-63168755:

Applicant argues that Vasnier fails to disclose a displayer for displaying "data of said first SIM card" (see page 12 of applicant's response). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a displayer for displaying "**data of said first SIM card**") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In this case, independent claims 33, 39, 46 recites "memory for storing digital *data*" and "a displayer coupled to said processor for displaying *said data*". Therefore, "said data" being displayed on the displayer referred to the *data* stored in the memory, **not necessarily the data being transferred from the SIM card to the memory**. Since the displayer 28 in Vasnier displays data from memory 23 (see column 5 lines 29-40), Vasnier discloses the claimed limitation of "a displayer" in claims 33, 39 and 46 with the broadest reasonable interpretations.

Applicant further argues that the Japanese document JP-63168755 fails to disclose "an input means for inputting instructions to said processor, wherein said processor restores said data to a second SIM card according to said inputting

Art Unit: 2685

instructions” as claimed. The examiner, however, disagrees. The Japanese document discloses that “In this case, in inserting a new IC card to the holder after being subjected to formatting, the data backup by the holder is transferred to the IC card” (see the Abstract Text). Therefore, the “input means” as claimed reads on the holder; the “instructions” as claimed reads on the user’s action of inserting a new card to the holder; the “processor” as claimed reads on the CPU (see the Purpose section).

In addition, the primary reference Vasnier also discloses input means for inputting instructions to said processor as claimed (see column 4 line 10 to column 5 line 20).

Rejection under 35 USC 103(a) as being unpatentable over Vasnier and JP-63168755 and Erola:

In this section, the examiner’s comments as set forth above are herein incorporated.

Rejection under 35 USC 103(a) as being unpatentable over Sarskog in view of Vasnier:

Applicant argues that Sarskog fails to disclose a displayer as claimed. However, as discussed above Vasnier does disclose a displayer as claimed with the broadest reasonable interpretations.

Rejection under 35 USC 103(a) as being unpatentable over Sarskog in view of Vasnier and Erola:

In this section, the examiner’s comments as set forth above are herein incorporated.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen T. Vo whose telephone number is (571) 272-7901. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571)272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen Vo

Nguyen Vo
11-6-2005

NGUYEN T. VO
PRIMARY EXAMINER